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PATENT  
Attorney Docket No.: 025929-000200US

TOWNSEND and TOWNSEND and CREW LLP

By

  
Dana Kane

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Rush E. Simonson

Application No.: 10/696,727

Filed: October 28, 2003

For: VERTEBRAL IMPLANTS  
ADAPTED FOR POSTERIOR  
INSERTION

Customer No.: 20350

Confirmation No. 6338

Examiner: Michael J. Araj

Technology Center/Art Unit: 3733

**INTERVIEW SUMMARY**

Mail Stop Amendments  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to Section 713.04 of the Manual of Patent Examination Procedure (MPEP), Applicant submits the following summary of the *in person* interview with Examiner Michael J. Araj conducted at the U.S. Patent and Trademark Office on October 28, 2008.

Applicant Rush E. Simonson would first like to thank Examiner Araj for meeting on October 28, 2008 with himself, his undersigned attorney, Guy W. Chambers, and Cynthia Simonson to discuss his U.S. Patent Application No. 10/696,727.

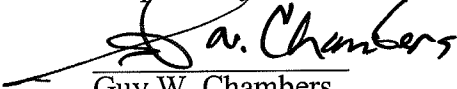
As correctly stated in Examiner Araj's October 28, 2008 "Interview Summary", the interview began with Applicant describing his invention and the state of the arthroplasty art. During the interview, reference was made to Michelson's U.S. Patent No. 6,436,098, Ralph's U.S. Patent No. 5,989,291, Beer's U.S. Patent No. 5,458,642 and the declaration of William A. Brennan M.D., F.A.C.S. submitted by Applicant on July 18, 2006. After discussing the nature of Applicant's invention and prior art of record, there was a discussion about whether the claims should be amended to more clearly distinguish Applicant's invention from the prior art of record.

It was agreed at the conclusion of the interview that the case would be put into condition for allowance with the following amendments to the pending claims: (1) inserting "when implanted" between "which" and "permanently" in pending claims 21 and 23-26; (2) changing "said vertebrae" to "said superior and inferior vertebrae" in claims 21 and 23-26; (3) inserting "permanently" before "articulating vertebral implant devices" in claims 21 and 23-26; (4) inserting "permanently" before "articulating" and inserting "vertebral implant" between "articulating" and "device" in claims 22-24; (5) inserting "permanently" before "articulating vertebral implant" in claim 26; (6) removing "each of" in claim 31, line 7; (7) inserting "wherein there is at least one of said permanently articulating vertebral implant devices on each side of a vertical medial plane defined by the spinous processes of said superior and inferior vertebrae" after "superior and inferior supports" in claim 31, line 12; (8) inserting "permanently" before "articulating vertebral implant" in claim 33 and (9) inserting "superior and inferior" between "said" and "vertebrae" in claim 34.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 576-0200.

Respectfully submitted,

  
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